

# ARUN DISTRICT COUNCIL

## REPORT TO AND DECISION OF CABINET ON 10 FEBRUARY 2020

**SUBJECT: Public Spaces Protection Order (PSPO) 2020-2023**

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**DATE:** 15 January 2020  
**EXTN:** 37835  
**PORTFOLIO AREA:** Community Wellbeing

### EXECUTIVE SUMMARY:

This report informs Cabinet of the findings of a public consultation exercise to review the existing Public Spaces Protection Order (PSPO) which expires in March 2020 and recommends to Cabinet options for a new PSPO to be effective from 1 April 2020.

### RECOMMENDATIONS:

It is recommended that Cabinet consider the following two options and resolve to adopt one for the provision of a new PSPO, to be effective from April 2020.

- 1. Option 1** contains the following restrictions and requirements at all times. The draft order and geographical areas are shown in **Appendix A**.
  - a. Alcohol free zones  
No person shall consume alcohol in any public space within the restricted areas of Bognor Regis and Littlehampton town centres.
  - b. Alcohol restriction  
No person shall refuse to stop drinking alcohol or refuse to hand over any container believed to contain alcohol when required to do so by an authorised officer.
  - c. Anti-social behaviour  
All persons are prohibited from behaving in a way which causes or is likely to cause nuisance, harassment, alarm or distress to a member or members of the public.

2. **Option 2** contains the following restrictions and requirements at all times. The draft order and geographical areas are shown in **Appendix B**.
  - a. Alcohol restriction  
No person shall refuse to stop drinking alcohol or refuse to hand over any container believed to contain alcohol when required to do so by an authorised officer.
  - b. Anti-social behaviour  
All persons are prohibited from behaving in a way which causes or is likely to cause nuisance, harassment, alarm or distress to a member or members of the public.
3. Subject to whichever option is adopted the Order is implemented, effective from 1 April 2020.
4. A sum of £10,000 is allocated for the promotion and signage of the agreed PSPO.

## 1. BACKGROUND:

### 1.1. Overview

- 1.1.1. Arun District Council implemented a Public Spaces Protection Order (PSPO) in April 2017 restricting specified behaviours in defined areas of the district. PSPOs were introduced by the Anti-Social Behaviour, Crime and Policing Act 2014 (The Act) as a tool to tackle anti-social and nuisance behaviour which has a widespread, negative impact on local communities. It enabled the Council to prohibit certain behaviour in a defined geographical area. Failure to comply with the requirements of an approved PSPO results in a criminal offence being committed and either a fixed penalty notice (FPN) being issued or a level 3 fine being issued on summary conviction (£1,000).
- 1.1.2. PSPOs expire after a period of 3 years. Therefore, it is incumbent on the Council to review the status of the Order and determine whether to amend, renew, or discharge it.
- 1.1.3. A PSPO should only be used to tackle anti-social behaviour where there is clear evidence that it causes significant nuisance to a community.
- 1.1.4. A copy of the current Order, including maps of the existing restricted areas, is attached to this report as **Appendix C**.
- 1.1.5. Authority to undertake public consultation and to consult with all other statutory and appropriate parties was given by the Leader on 19 September 2019.
- 1.1.6. By virtue of The Act, the Council is obliged to consult with the Police and Crime Commissioner, the Chief Police Officer, the owners and occupiers of land within the restricted areas, and any other community representatives the local authority thinks appropriate. In order to obtain a range of views, public consultation took place on a district wide basis from 24 September 2019 to 24 October 2019 and included seeking the views of Arun DC Members, town and parish councils, and other organisations that may have an interest in this matter.

- 1.1.7. An online survey was available for completion via the Council's website and was widely advertised on social media platforms and local press. Hard copies of the survey were also available for completion at the Arun Civic Centre and Bognor Regis Town Hall. Cabinet is advised that residents, community representatives, statutory partners and interested local organisations had a reasonable opportunity to consider the draft proposals as contained in the consultation and express their views.
- 1.1.8. During the term of the current PSPO, the Council and partners including the Police have continued to receive reports from local communities regarding the presence of 'street community' populations in both Bognor Regis and Littlehampton town centres. It is reported that the negative behaviour caused by these groups is associated with being under the influence of alcohol resulting in disorderly behaviour, congregating in groups with verbal altercations and in-group violence. This, along with the public's negative perception of safety and enjoyment of public footfall areas, may be considered by the Council in utilising its discretionary powers under The Act.
- 1.1.9. The consultation took account of representations received from the business partnerships in Bognor Regis and Littlehampton town centres about the impact of cycling in pedestrianised areas and asked for views on whether to include a prohibition on cycling in these areas.
- 1.1.10. Section 59 of The Act states that, to impose an Order, the Council must be satisfied on reasonable grounds that the following two conditions are met:
- Condition 1
    - a. The activities carried out in a public place have a detrimental effect on the life of those in the locality, or;
    - b. It is likely that activities will be carried on in a public place within that area and that they will have such an effect.
  - Condition 2
    - a. Is or is likely to be of a persistent and continuing nature.
    - b. Is or is likely to be such as to make the activities unreasonable, and
    - c. Justifies the restrictions imposed by the notice.
- 1.1.11. Cabinet is advised that an interested person (someone who lives in, regularly works in, or visits the restricted area) can challenge the PSPO in the High Court within six weeks of it being made. The validity of the Order can be challenged on two grounds:
- i) That the Council did not have the power to make the Order, or to include particular prohibitions or requirements.
  - ii) That one of the requirements (for instance, consultation) had not been complied with.
- 1.1.12. The making of a PSPO can also be challenged by judicial review on public law grounds within three months of the decision.

## **1.2. Consultation Outcomes**

- 1.2.1. The consultation sought views on implementing a ban on the consumption of alcohol and a restriction on causing anti-social behaviour in defined areas of Bognor Regis and Littlehampton town centres. These areas were smaller than the restricted areas of the 2017 PSPO based upon the evidence received by the Council and partner agencies.
- 1.2.2. Additionally, the consultation sought views on including a number of Council owned parks and the foreshores areas to prohibit camping or occupation of unauthorised structures, and to restrict the consumption of alcohol.
- 1.2.3. A copy of the consultation survey is attached to this report as **Appendix D**.
- 1.2.4. A summary of the responses from the public to the draft PSPO proposals are summarised in **Appendix E**. A total of 749 responses were received.
- 1.2.5. The key outcomes of the consultation in relation to proposals to tackle anti-social behaviour in Bognor Regis and Littlehampton town centres are that:-
  - 657 respondents were in favour of prohibiting alcohol from being consumed in the restricted areas.
  - 536 respondents stated they had personally witnessed anti-social behaviour in the proposed restricted areas as a result of street drinking.
  - 700 respondents were in favour of giving authorised officers the power to disperse people causing ASB from the restricted area.
  - 417 respondents were in favour of prohibiting cycling in the restricted areas.
- 1.2.6. The key outcomes of the consultation in relation to proposals to tackle anti-social behaviour in some of the Council's parks, open spaces, and foreshores are:-
  - 89% of respondents were in favour of preventing people from occupying a structure or vehicle for the purpose of camping.
  - 96% of respondents were in favour of restricting the drinking of alcohol when it is associated with nuisance behaviour.
- 1.2.7. Officers, supported by Sussex Police, held a workshop for Members on 7 January 2020 to consider the options for a new PSPO. Consideration was given to extending the restriction zone to encompass the whole district. However, this has been dismissed as the evidence does not support applying the restrictions to such a wide area.

## **1.3. Potential prohibitions and evidence**

### **1.3.1. Alcohol Control**

The consultation sought views on the use of PSPO prohibitions to effectively ban the consumption of alcohol in public spaces within the defined locations around Bognor Regis and Littlehampton town centres. It is important to note that prohibitions are applicable to everyone in the defined area. Licensed premises or where a temporary event licence has been granted will be exempt so long as alcohol is consumed within the curtilage of the licensed premises.

Authorised officers would also have the power to confiscate and dispose of alcohol where it is being consumed within the restriction zone.

#### 1.3.2. Dispersal Powers

The Act gives local authorities the discretionary power to allow authorised officers to disperse people from the defined PSPO area where they are causing, or likely to cause, anti-social behaviour. This helps mitigate the detrimental impact of individuals and groups engaged in ASB on local people and visitors within the defined areas.

Cabinet is advised that although the same dispersal powers are contained within the current Order, it has not been enforced. This is due to the wide catchment area of the restricted areas and it being disproportionate to direct someone to disperse from an area in which they live. For example, someone who resides in Rustington, but is causing ASB in Littlehampton town centre, would have to be directed to leave the area covering the East of the district and preventing them from accessing their home. By considering the reduction of the exclusion zones, the use of the dispersal powers could be more effective.

#### 1.3.3. Prohibition of Cycling

Feedback from business partnerships in Bognor Regis and Littlehampton is that cycling in the main pedestrianised areas of the town centres is anti-social and causes shoppers to feel intimidated and at risk of injury. It has been reported that this has a detrimental impact on the way of life of the public and, in turn, affects local businesses.

This prohibition was included in the consultation. 76% of respondents to the question were in favour of including a restriction on cycling as part of the PSPO. However, West Sussex County Council were consulted on this as the land owner and have stated that a Traffic Regulation Order (TRO) is in place which prevents cycling, and is enforceable by the Police, as follows:-

- London Road, Bognor Regis – no cycling allowed between 9am and 5pm.
- High Street, Littlehampton – no cycling permitted 24/7.

Therefore, the proposal to prohibit cycling in the designated areas has been withdrawn as a proposal from the Council's PSPO as this land is owned and managed by WSCC who have full responsibility of enforcing the TRO.

#### 1.3.4. Council parks, open spaces, and foreshores

The proposal to prohibit people from occupying a tent, vehicle or other structure within specified areas for the purpose of camping is aimed at keeping these areas safe and preventing damage to such spaces which are there for the public to freely enjoy. It is important to note that this is not intended to unfairly target the homeless. The Council seeks to engage with street homeless individuals when Streetlink referrals are received by the Housing Options team to provide appropriate support and advice.

In August 2019, the Home Office issued updated guidance on the use of PSPOs and specifically states that they "should not be used to target people based solely on the fact that they are homeless or rough sleeping, as this in itself is unlikely to mean that their behaviour is having an unreasonably detrimental effect on the community's quality of life which justifies imposing restrictions using a PSPO."

Therefore, in looking to include a restriction on people occupying unauthorised structures in park areas, a very strict and concise definition of what constitutes a 'tent, vehicle or other structure for the purpose of camping' must be agreed upon. It is noted that alternative powers are already available to evict unauthorised occupation of land through the Courts.

The proposal to introduce a prohibition on camping in the parks has been withdrawn due to the availability of an alternative route to removal of unauthorised occupation, and the practical difficulties in being able to enforce, including the inappropriateness of issuing an FPN or a summons to someone who does not have the means to pay or is of no fixed abode.

Reports have previously been received by the Council that these recreational spaces have been used for consumption of alcohol and that this has resulted in ASB being caused. However, the persistent nature of alcohol related ASB does not match that of the town centres. Therefore, consultation did not consider a complete ban on alcohol consumption, but looked at a restriction instead, where related to ASB, to protect the enjoyment of these spaces for the public.

#### **1.4. Resources and Enforcement**

- 1.4.1. The Council can authorise officers, including its own and those of partner organisations, to enforce the Order.
- 1.4.2. To date, it is only the Police who have been authorised to enforce breaches of the Order. Previously, town and parish Councils have not committed resources to providing officers to carry this out. Officers would have to be accredited via the Sussex Police Community Safety Accreditation Scheme (CSAS). Council officers have not been delegated the appropriate authority previously. However, this has been addressed via a change to the Constitution agreed at Full Council on 18 September 2019. As a result, Arun's Anti-social Behaviour Caseworkers will be authorised to respond to incidents in the future.
- 1.4.3. Sussex Police has introduced a number of PCSOs to the Arun area with dedicated areas, but these officers do not currently have the power to enforce PSPOs.
- 1.4.4. Careful consideration is required to ensure that adequate resources are available to enforce the adopted Order. If insufficient resources are available, public expectation will not be met, and the Order will be viewed as ineffective in reducing anti-social behaviour. In turn, this could have a negative impact on the Council's reputation. Council staff and partner organisations would be likely to be affected due to an increase in the number of complaints received from members of the public.
- 1.4.5. The Council, and partners, will also need to carefully consider how it communicates to the public the terms of the Order. The current Order has widely been misinterpreted as an alcohol ban rather than a restriction on consumption of alcohol when behaviour is related to ASB. Social media, the Council's website, press outlets, and signage will need to be utilised to ensure the message is published correctly and to manage expectations.
- 1.4.6. As noted at 1.3.2. above, enforcement of the dispersal requirement has not been utilised during the current Order for the reasons stated.

1.4.7. Officers are aware of potential localised concerns around displacing street drinking and ASB from the restricted areas of the town centre in Option 1 to outlying locations. A PSPO can only be used to tackle ASB in areas where there is clear evidence that identified behaviours have a detrimental impact on a community's everyday life. It should be noted that in identifying the zones to be included, evidence of issues has been sought from the Police to include the number of ASB reports and alcohol related incidents. However, if there is sufficient evidence of an emerging issue the PSPO can be varied to include and/or remove areas as required.

## **1.5. Budget**

1.5.1. There will be a cost implication to introducing a new PSPO due to the need to erect new signage accurately reflecting the prohibitions. Signage would be required in prominent locations within the restricted zones. It is estimated that a budget of £10,000 is required to meet the cost of new signage and promotion of the new Order.

## **1.6. Anticipated Timetable**

1 April 2020 - Implementation of agreed PSPO.

## **2. PROPOSAL(S):**

### **Option 1 (Appendix A)**

#### **a) Alcohol free zones**

No person shall consume alcohol in any public space within the restricted areas of Bognor Regis and Littlehampton town centres.

Restriction **a)** will apply at all times to the areas marked in red on the maps attached to the Order.

#### **b) Alcohol restriction**

No person shall refuse to stop drinking alcohol or refuse to hand over any container believed to contain alcohol when required to do so by an authorised officer.

#### **c) Anti-social behaviour**

All persons are prohibited from behaving in a way which causes or is likely to cause nuisance, harassment, alarm or distress to a member or members of the public.

Restrictions **b)** and **c)** above will apply at all times to the areas outlined in blue on the maps attached to the Order.

### **Option 2 (Appendix B)**

#### **a) Alcohol restriction**

No person shall refuse to stop drinking alcohol or refuse to hand over any container believed to contain alcohol when required to do so by an authorised officer.

#### **b) Anti-social behaviour**

All persons are prohibited from behaving in a way which causes or is likely to cause nuisance, harassment, alarm or distress to a member or members of the public.

These restrictions will apply at all times to the areas outlined in blue on the maps attached to the Order.

2.1. An Options Appraisal Matrix is supplied below for consideration in relation to each of the proposed individual restrictions:

<b>Restriction:</b>	Alcohol free zones
<b>Pros:</b>	<ul style="list-style-type: none"> <li>• Targeted and clearly defined areas.</li> <li>• Addresses concerns of town centre business partnerships.</li> <li>• Reflects response to public consultation: <ul style="list-style-type: none"> <li>- 325 in favour of an alcohol ban in Bognor Regis town centre</li> <li>- 333 in favour of an alcohol ban in Littlehampton town centre</li> </ul> </li> <li>• Allows reasonable use of the power to disperse people from the defined area.</li> <li>• Sets the tone and standard of the area.</li> <li>• Unambiguous and clearly understood prohibition.</li> </ul>
<b>Cons:</b>	<ul style="list-style-type: none"> <li>• Applies to everyone whether they are causing an associated nuisance or not.</li> <li>• No discretions afforded to officers.</li> <li>• May promote a negative image of the town centres to visitors i.e. prominent and intrusive signage.</li> <li>• Limited enforcement resources.</li> <li>• Sets a high level of public expectation for enforcement which, if not met, could negatively impact on the Council's reputation.</li> <li>• Possible displacement of street drinkers to outlying areas.</li> <li>• Human Rights legislation must be considered.</li> <li>• Fixed Penalty Notices cannot be issued to anyone intoxicated or who is known not to have the means to pay; this restricts enforcement options by Council officers.</li> <li>• Authorised Council officers would come into conflict with drinkers who refuse to surrender their alcohol.</li> <li>• Needs additional Council capacity to process warnings, issue fixed penalty notices and/or Court summons.</li> </ul>
<b>Mitigation:</b>	<ul style="list-style-type: none"> <li>• Increase enforcement capacity to consistently and fairly enforce the Order.</li> <li>• Consider decreasing the geographical size so it is proportionate and enforceable e.g. to just one or two streets.</li> </ul>

<b>Restriction:</b>	Restriction on alcohol consumption
<b>Pros:</b>	<ul style="list-style-type: none"> <li>• A proportionate and targeted response to identified problematic individuals.</li> <li>• Needs led.</li> <li>• Minimal confusion with licensing powers and approach.</li> <li>• Manages public expectation as explanation for response is negotiated, based on need and can be flexed according to public</li> </ul>



	<p>demand ie. increased complaints provide evidence for more resources.</p> <ul style="list-style-type: none"> <li>• Mitigates displacement by removing a 'hard' geographical red line.</li> <li>• Council seen to be fair and balanced in their response to the problem.</li> <li>• Preferred approach by Arun Police district commander and leadership team.</li> <li>• Allows responsible people to consume alcohol without fear of being criminalised.</li> </ul>
Cons:	<ul style="list-style-type: none"> <li>• Open to inconsistent interpretation and application of enforcement as relies on the judgement of authorised officers.</li> <li>• Can lead to confusion for the public as to what is and is not permitted.</li> <li>• Needs additional Council capacity to process warnings, issue fixed penalty notices and/or Court summons.</li> </ul>
Mitigation:	<ul style="list-style-type: none"> <li>• Instigate clear partnership protocol and guidelines for joint enforcement with Police.</li> <li>• Manage expectation and understanding through clear education and communications to public and stakeholders.</li> <li>• Ensure wording of PSPO is clear and in plain English (not legalese).</li> <li>• Ensure signage is clear, prominent, visible and easily understood.</li> </ul>

<b>Restriction:</b>	Anti-social behaviour (ASB)
Pros:	<ul style="list-style-type: none"> <li>• Makes it clear to the public that anti-social behaviour will not be tolerated.</li> </ul>
Cons:	<ul style="list-style-type: none"> <li>• Could be open to interpretation of officers as to what is anti-social behaviour.</li> <li>• Potential to result in an inconsistent enforcement approach.</li> <li>• Cannot be enforced against under 18s; this cohort have been identified as causing ASB in the town centres.</li> </ul>
Mitigation:	<ul style="list-style-type: none"> <li>• To agree with partners a clearly defined working definition of what constitutes ASB that will be enforced under the Order.</li> <li>• Ensure that this standard of behaviour accompanies the Order when published on the Council's website.</li> <li>• The Safer Arun Partnership has funded the provision of youth outreach services to intervene with young people when identified as causing ASB.</li> <li>• High level youth offenders can be dealt with under alternative legislation and possibly referred to the Police and Crime Commissioner's REBOOT scheme.</li> </ul>

### 3. OPTIONS:

- 3.1. To adopt Option 1 outlined in Section 2.
- 3.2. To adopt Option 2 outlined in Section 2.

<p>3.3. To make the Order effective from 1 April 2020 upon adopting either Option.</p> <p>3.4. Not to adopt either of the proposed options outlined in Section 2. This will result in the current Order expiring and being discharged leaving no PSPO in place within the district.</p>		
<b>4. CONSULTATION:</b>		
Has consultation been undertaken with:	<b>YES</b>	<b>NO</b>
Relevant Town/Parish Council	✓	
Relevant District Ward Councillors:		
All Members were asked on two occasions to give their comments on the consultation and were invited to a workshop held on 7 January 2020.	✓	
Other groups/persons (please specify):		
Public questionnaire was made available online and at Council offices and advertised via social media and press, views invited from Sussex Police and Crime Commissioner, Sussex Police, WSCC Highways, Stonepillow, Turning Tides, Town and Parish Councils, Bognor Regis BID, Littlehampton Traders Partnership, SWL Security (Business Wardens), Salvation Army, My Sisters House, Radio Respect, Littlehampton Civic Society, Littlehampton and Bognor Regis Foodbanks, Littlehampton Harbour Board, members of the Arun Joint Action Group, ADC Members and staff, Govia Thameslink Railway.	✓	
<b>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)</b>	<b>YES</b>	<b>NO</b>
Financial	✓	
Legal	✓	
Human Rights/Equality Impact Assessment	✓	
Community Safety including Section 17 of Crime & Disorder Act	✓	
Sustainability		✓
Asset Management/Property/Land	✓	
Technology		✓
Other (please explain)		
<b>6. IMPLICATIONS:</b>		
<p><b>Financial</b> – amending the current PSPO, creating a new PSPO for additional locations, and implementing the prohibitions contained within the Order has an implication on Council resources involving publicity, promotion, enforcement, management, monitoring, and legal services. The extent of the financial implication is</p>		

dependent on the prohibitions included and agreed upon restricted areas.

**Legal** – Ongoing assistance and advice from Legal Services will be required to implement the Order/s.

**Human Rights / Equality** – An Equality Impact Assessment has been completed and indicates that there is little impact on the groups identified. Those who breach the restrictions of the PSPO and identified as being at a socio economic disadvantage would require officers to consider their circumstances and whether it is appropriate to issue a fixed penalty notice if they have no means to pay.

**Community Safety** – A PSPO is designed to improve community safety through deterring and preventing individuals or groups engaging in anti-social behaviour in public spaces.

**Asset Management** – The Order would apply to land owned by the Council as well as other land accessible to the general public.

## **7. REASON FOR THE DECISION:**

To mitigate the expiration of Arun's current PSPO by implementing a new Order which meets the needs of the district and enables the Council and partners to reduce anti-social behaviour and improve community safety.

## **8. EFFECTIVE DATE OF THE DECISION: 19 February 2020**

## **9. BACKGROUND PAPERS:**

Appendix A – Option 1

Appendix B – Option 2

Appendix C – existing Order - [Arun PSPO 2017](#)

Appendix D – copy of public consultation survey

Appendix E – public consultation response data

Appendix F – Equality Impact Assessment

ASB Crime and Policing Act 2014: Anti-Social Behaviour Powers, Statutory Guidance for Frontline Professionals, updated August 2019 - [ASB Revised Statutory Guidance - August 2019](#)

PSPO Legislation - [PSPO Legislation](#)

Report to Cabinet on 12 December 2016 – [Report](#)

Cabinet decision notice 12 December 2016 – [Decision Notices](#)

Cabinet minutes of meeting 12 December 2016 – [Cabinet Minutes](#)

Full Council minutes of meeting 11 January 2017 – [Full Council Minutes](#)